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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

CICLALI ANGELINA MUNOZ,

Defendant and Appellant.

A160284

(Napa County Super. Ct.
No. 19CR000861)

Defendant Ciclali Munoz was placed on probation for five years, with terms and conditions that include mental health treatment, after she pleaded no contest to two counts of felony stalking. On appeal, her appointed counsel has filed an opening brief asking this court to independently examine the record in accordance with *People v. Wende* (1979) 25 Cal.3d 436. Defendant was apprised of her right to file a supplemental brief, but she did not do so. We have conducted our examination, conclude there are no arguable issues, and affirm.

FACTUAL BACKGROUND

Because defendant entered into a negotiated plea agreement prior to trial, we derive the background facts from the probation report, which reveals the following:

On December 17, 2018, the Napa Police Department received a report that a Napa firefighter was being harassed on social media. When contacted by the police, firefighter John Vogler told them he had noticed that defendant, whom he did not know, had “ ‘shared’ ” a photo he posted on his Facebook page and had posted a picture of him on her page. After seeing that, he recalled having received a Facebook message from defendant a few months earlier, so he checked his messages and discovered she had been sending him multiple messages a day, some requesting money and others talking about being stalked and raped. He also recalled having transported someone for mental health reasons several years earlier, and he believed it was the same person.

That same day, defendant called Fire Station 3, where Vogler worked, and told a captain that Vogler was making fun of her on Facebook.

Two days later, police officers contacted defendant at her home and told her to stop harassing Vogler. Defendant said she had stopped contacting him the day before and understood what the officers were telling her.

Despite this, the next day, defendant made multiple telephone calls to Fire Station 3, asking to speak to Vogler. The police again contacted her and told her to stop, and she responded that she was being “ ‘gang stalked,’ ” was hearing voices, was going to be murdered, and sometimes wanted to kill herself. She was transported to a crisis center.

In late February 2019, defendant resumed her harassment of Vogler. When he deleted his Facebook account, defendant began contacting his wife on Facebook, prompting her, too, to delete her account. Defendant also continued to call Fire Station 3 to speak to Vogler, compelling the station to change and unlist its telephone number. Vogler told an officer he was

worried about his and his family's safety and wanted to pursue harassment charges and obtain a restraining order.

Vogler obtained the desired restraining order, which among other things ordered defendant not to contact the fire department or post on its Facebook page. On March 20, however, Vogler reported to the police that defendant continued to post on the department's Facebook page, with a post the previous day stating, " 'You should have gotten a 500-foot restraining order. I will harm you.' " The police attempted to contact defendant at her home and by telephone but could not locate her.

On March 22, it was reported to the police that defendant had posted additional messages to Vogler on the fire department's Facebook page, including a threat to physically harm him and an altered picture of his head on a pornographic image. When Vogler learned of the new postings, he was upset and told the police he wanted defendant prosecuted for violating the restraining order.

Over the next few days, defendant's harassment continued, with Vogler learning on March 24 that she had continued to post on the fire department's Facebook page, posts that included a threat to kill him and additional altered photos bearing his image. Vogler again told police he wanted defendant prosecuted for violating the restraining order and threatening him.

On March 26, police officers went to defendant's home to arrest her. They first spoke with her brother, who told them defendant had "not been 'right' recently" and had threatened to kill him. Defendant was arrested moments later without incident.

In a post-arrest interview, defendant claimed she was being " 'gangstalk[ed]' " and when she found out that Vogler was stalking her, she decided to " 'return the favor.' " She acknowledged having messaged him and

his wife on Facebook, including after she was served with the restraining order. She also acknowledged she had not been taking her medications.

PROCEDURAL BACKGROUND

On March 28, 2019, the Napa County District Attorney filed a felony complaint charging defendant with stalking Vogler between December 17, 2018, and March 27, 2019 (Pen. Code, § 646.9, subd. (b)), and three counts of making criminal threats in March 2019, one each involving Vogler, his wife, and defendant's brother (*id.*, § 422).

After defendant was arraigned on the complaint, defense counsel expressed a doubt about defendant's competency to stand trial. On May 7, the trial court found her incompetent, and the following month ordered her committed to Napa State Hospital.

On February 19, 2020, the Napa State Hospital medical director certified that defendant had been restored to mental competency.

On April 6, the trial court found defendant to have been restored to competency and reinstated the criminal proceedings. That same day, the district attorney filed an amended complaint that added a second felony stalking charge, this one naming defendant's brother as the victim. And, pursuant to a plea agreement, defendant pleaded no contest to the two stalking charges, and the criminal threats charges were dismissed pursuant to a *Harvey* waiver.¹

On May 1, pursuant to the plea agreement, the court suspended imposition of sentence and placed defendant on probation for five years with terms and conditions that included participating in mental health treatment and complying with stay away orders as to the Voglers and defendant's brother. The court also imposed a Government Code section 70373 court

¹ *People v. Harvey* (1979) 25 Cal.3d 754.

facilities assessment of \$30 per count and a Penal Code section 1465.8 court operations assessment of \$40 per count, for a total of \$140.00.

On June 1, defendant filed a notice of appeal.

Defendant's appellate counsel represents that after receipt of defendant's appeal, he identified the imposition of the court facilities and operations assessments as potentially meritorious issues on appeal. Because Penal Code section 1237.2 requires a defendant to file a motion for correction of such issue in the trial court before it is justiciable on appeal, on September 14, counsel wrote the Napa County Superior Court to request waiver of the assessments. According to appellate counsel, the court granted the request.

DISCUSSION

Where, as here, a defendant has pleaded guilty or no contest to an offense, the scope of reviewable issues is restricted to matters based on constitutional, jurisdictional, or other grounds going to the legality of the proceedings leading to the plea; guilt or innocence are not included. (*People v. DeVaughn* (1977) 18 Cal.3d 889, 895–896.)

The admonitions given defendant at the time she entered her plea fully conformed with the requirements of *Boykin v. Alabama* (1969) 395 U.S. 238 and *In re Tahl* (1969) 1 Cal.3d 122, and her waiver was knowing and voluntary.

The record provides a factual basis for the plea.

Defendant was at all times represented by competent counsel who protected her rights and interests.

The sentence imposed is authorized by law.

DISPOSITION

Our independent review having revealed no arguable issues that require further briefing, the judgment of conviction and sentence are affirmed.

Richman, J.

We concur:

Kline, P.J.

Stewart, J.

People v. Munoz (A160284)